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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,864	04/25/2001	Timothy A. Lewis	00-1019	7239
7590	01/19/2005		EXAMINER	
LOREN H. McROSS PHOENIX TECHNOLOGIES LTD 915 MURPHY RANCH ROAD MILPITAS, CA 95035				BONURA, TIMOTHY M
		ART UNIT	PAPER NUMBER	2114

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/841,864	LEWIS, TIMOTHY A.
	Examiner	Art Unit
	Tim Bonura	2114

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 October 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5, 7 and 9-13 is/are rejected.

7) Claim(s) 6 and 8 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 April 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



**NADEEM IQBAL
PRIMARY EXAMINER**

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7, and 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve, U.S. Patent Number 5,398,333, and further in view of Indiana University Knowledge Base article “Using the Windows NT 4.0 Task Manager, how do I close an application that is not responding” (referred to as IUKB).

3. Regarding claim 1:

a. Regarding the limitation of “detecting status of at least two software-detectable buttons at power-on of the computer system” Schieve discloses a system that has a reset button that can be detected upon being pressed. (Lines 35-36 of Column 2). The button can be used during a booting state. (Lines 7-10 of Column 3). Schieve does not disclose having at least two buttons. IUKB discloses a system with the Windows NT 4.0 task manager program that can be accessed by pressing ctrl-Alt-Delete on the keyboard. The task manager is well known to have the functionality of buttons to reset a computer and have the ability to enter a recovery mode by “killing” application programs. (See web page printout). It would have been obvious to one of ordinary skill in the art at the time of the invention combine the art of Schieve and the Windows NT 4.0 task manager. One would have been motivated because Schieve discloses a system in which the scope of the

invention allows for interaction with a user via a keyboard and monitor. (Lines 15-18 of Column 3).

b. Regarding the limitation of “distinguishing between normal use of the at least two software-detectable buttons and as firmware recovery buttons” Schieve discloses a button that can act as a diagnostic button or a reset button. (Lines 37-42 of Column 2). IUKB discloses multiple buttons. (See printouts).

c. Regarding the limitation of “initiating system firmware recovery mode,” Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. (Line 64-66 of Column 2 and Lines 65-68 of Column 4).

4. Regarding claim 2, Schieve discloses a system with where the button is also an on/reset button. (Lines 57-63 of Column 2).

5. Regarding claim 3, Schieve discloses a system wherein upon pressing the reset button an I/O bit is set at the CPU. (Lines 5-8 of Column 6).

6. Regarding claim 7:

d. Regarding the limitation of “selectively holding down the power or sleep button at power-on for a predetermined time period,” Schieve discloses a system wherein the power button has a timer associated with the pressing of the button. (Lines 55-60 of Column 5).

e. Regarding the limitation of “providing an indication to release the selected button,” Schieve also discloses that the system will reset if the button is not pressed correctly to activate the diagnostic routine. (Lines 32-34 of Column 3).

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7. Regarding claims 12, Schieve discloses a system wherein the reset button is pressed to initiate a diagnostic routine. (Lines 30-32 of Column 3)

8. Regarding claims 13, Schieve discloses a system wherein the reset button is pressed to initiate a diagnostic routine. (Lines 23-32 of Column 3)

9. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve as applied to claim 1 above.

10. Regarding claim 4, Schieve discloses a system wherein a bit is set in the CPU upon a power button being pressed. (Lines 5-8 of Column 6). However, Schieve does not disclose the bit is stored in the PM1a_CNT register. It would be a design choice of the inventor as to what type of CPU is used and which register to store the bit in. The applicant suggests this in there own application. (Page 5, 1st paragraph).

11. Regarding claim 5, Schieve discloses a system wherein a bit is set in the CPU upon a power button being pressed. (Lines 5-8 of Column 6). However, Schieve does not disclose the bit is stored in the PWR-LVL register. It would be a design choice of the inventor as to what type of CPU is used and which register to store the bit in. The applicant suggests this in there own application. (Page 5, 1st paragraph).

12. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve as applied to claim 1 above, and further in view of Schmidt, et al, U.S. Patent Number 6,167,482. Regarding claim 9, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious

to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

13. Regarding claim 10, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a modem to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

14. Regarding claim 11, Schieve discloses a system where the pressing of the button can invoke a diagnostic routine stored on electrically erasable programmable ROM. Schieve does not disclose a system with means of updating the flash memory. Schmidt discloses a method that can use a floppy disk or a modem to update a flash memory. (Lines 26-31 of Column 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the flash memory of Schieve with the updating means of Schmidt. One of ordinary skill would have combined these features because, as disclosed by Schmidt, updating means are

important as to provide for additional features and to reduced production time from design to conception. (Lines 13-19 of Column 1).

Response to Arguments

15. Applicant's arguments see Remark section of Reply, page 10-11, filed 10/21/2004, with respect to claims 6 and 8 have been fully considered and are persuasive. The 101 rejections of claims 6 and 8 have been withdrawn.
16. Applicant's arguments with respect to claims 1-3, and 7 have been considered but are moot in view of the new ground(s) of rejection.
17. Applicant's arguments filed 10/21/2004 have been fully considered but they are not persuasive.
18. Regarding arguments from claims 7 and 12, the argument (Page 8 of response). The applicant has argued that "holding down the power or sleep button at power-on for a predetermined time period." The examiner contends that Schieve discloses this by saying that a button is depressed. (Column 5, lines 46 - Column 6 line 2). The applicant does not claim an amount for the predetermine time period, thereby the examiner concludes any time period would over come the claims. By depressing the button a minimum amount of time must have been passed for at least an electrical connection to occur and the timeout period of Schieve to begin. Therefore, Schieve covers the claimed limitation.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

22. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Rob Beausoliel**.

- The supervisor can be reached on **571-272-3645**.

23. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

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24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

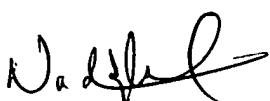
26. Responses should be mailed to:

o **Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114



tmb
January 7, 2005

NADEEM IQBAL
PRIMARY EXAMINER